

## Remarks

### **Claims Rejections – 35 USC § 102**

Examiner has rejected claims 1-4, 8 and 9 under 35 USC § 102(e) as being anticipated by *Riggan et al.* (US 6,490,252).

Applicant respectfully traverses that this rejection for the following reasons.

Firstly, independent claims 1 and 8 relate to a connectionless network, such as an IP network. The term 'connectionless network' is well-defined and relates to a network in which packets are independently addressed and transmitted across a network without the need for establishing a prior connection. In contrast, in *Riggan*, network 305 is an ATM network which is a connection-oriented network. This is a fundamental difference.

Claims 1 and 8 require the connectionless network to be monitored to determine an actual, or expected, congestion point. Such congestion points arise because of the nature of connectionless networks, where routers often forward packets without knowledge of how their operation will affect the network as a whole. In *Riggan*, there is no such monitoring for congestion within the network. Indeed, there is no need for it, since in a connection-oriented network an ingress point to the network (e.g. node 300a in Figure 2 of *Riggan*) establishes a traffic contract with the user. The contract includes a quality of service (QoS) which is strictly enforced by the Ingress; see for example col. 4 lines 36-41. In *Riggan*, node 300a redirects any traffic which will exceed the agreed traffic contract with a user, as described at col. 4 lines 48-67. In this way, the ATM network of *Riggan* prevents congestion points from occurring by not accepting any 'excess' traffic (traffic in excess of the agreed traffic contract) at the point of entry. Excess traffic is redirected to a second, different, network. Whereas in the present invention, selected traffic is diverted along an express route within the same network.

In view of the above, it is submitted that claims 1-4, 8 and 9 are clearly not anticipated by *Riggan*.

### **Claims Rejections – 35 USC § 103**

Examiner has rejected claims 5-7 under 35 USC § 103(a) as being unpatentable over *Riggan et al.* in view of *Kodialam* (US 6,538,991).

In relation to claim 5 and 6, Examiner alleges that "*Riggan* discloses all aspects of the claimed invention and further teaches diverting step within one said end element such that data packets having a destination address corresponding to said user are diverted along said route." Applicant disagrees, and has reasoned above why *Riggan* fails to teach all of the limitations of claim 1. *Riggan* neither teaches a connectionless network, nor any monitoring of congestion within the network. Furthermore, the passage of *Riggan* that the Examiner is relying upon to show the diverting step (col.2 lines 9-18) merely states that the type of user traffic is identified, e.g. voice or data traffic, rather than the addresses of the user and customer. In view of these deficiencies in *Riggan*, a combination of *Riggan* and *Kodialam* would not teach all of the limitations of claims 5-7.

It is further noted that *Kodialam* aims to provide a uniform quality of service to all links between end-points of the network – see for example col. 4 lines 2-6 and col. 10 lines 3-6. This is entirely at odds with the present invention, where a priority service is provided for particular customers. Thus, there is no motivation for one of ordinary skill in the art to combine the teachings of *Riggan* and *Kodialam*.

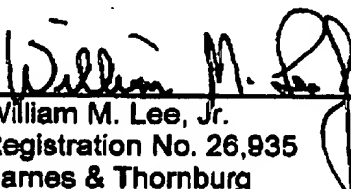
In relation to the rejection made to claim 7, *Riggan* does not disclose a connectionless network; Figure 2, reference 305 is a connection-oriented ATM network. *Riggan* does not teach filter means for identifying and diverting data

packets having a source address corresponding to a user. The passage of *Riggan* at col.2 lines 9-11 only mentions identifying type of traffic, rather than source address. In view of these deficiencies in *Riggan*, a combination of the teachings of *Riggan* and *Kodialam* would not teach all of the limitations of claim 7. The significance of diverting traffic according to the source address is explained at page 8 line 9 to page 9 line 10 of the present invention. Because routers normally only consider the destination address of a data packet, they would not normally be able to divert traffic from a customer (e.g. a company web site), and destined for a home user, onto an express route. By considering source address, the network element can identify traffic that is from a particular customer (i.e. the company owning the web site and paying for the express route service) and divert this to the express route. This allows network operators to provide an important service to selected customers.

For the foregoing reasons Applicant respectfully submits that the claims in this application are in condition for allowance. Favorable reconsideration and early issuance of a notice of Allowance is solicited.

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Respectfully submitted,

  
 William M. Lee, Jr.  
 Registration No. 26,935  
 Barnes & Thornburg  
 P.O. Box 2786  
 Chicago, Illinois 60690-2786  
 (312) 214-4800  
 (312) 759-5646 (fax)